HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.17452 of 2006

-

-

Between:

Smt. Saleem Unnisa Begum

……Petitioner

And

Registrar,
Institution of A.P. Lok Ayukta & Upa Lok Ayukta,
Bashir Bagh, Hyderabad – 500 060 and six others

……Respondents

:: ORDER ::

Counsel for the Petitioner : Shri J.Ravindra

Counsel for Respondent No. 7 : Shri M.V.S.Suresh Kumar

October 12, 2006

Per G.S. SINGHVI, CJ

Feeling aggrieved by order dated 24-10-2005 passed by Lok Ayukta of Andhra Pradesh in Complaint No.1121 of 2005, whereby he refused to take cognizance of the complaint made by the petitioner against respondent Nos.2 to 6, the petitioner has filed this petition under Article 226 of the Constitution of India.

A perusal of the record shows that the petitioner filed complaint before the Lok Ayukta with the allegation that respondent Nos.2 to 6 had regularised illegal occupation of trespassers by taking bribes and thereby affected her rights. The learned Lok Ayukta refused to entertain the complaint made by the petitioner on the premise that none of the non-petitioners answer the description of 'public servant' as defined in Section 2(k) of the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 (for short, 'the 1983 Act').

Learned counsel for the petitioner argued that the order under challenge should be declared as vitiated by an error of law because it is based on misinterpretation of the term 'public servant'. He further argued that the learned Lok Ayukta committed a serious error by rejecting the complaint even without issuing notice to the non-petitioners.

Shri M.V.S.Suresh Kumar supported the impugned order and argued that the complaint filed against non-petitioner Nos.2 to 6 was not maintainable and, therefore, it was rightly dismissed at the threshold.

Insofar as the second argument of the learned counsel is concerned, we are convinced that in view of Rule 4 (4) (e) of the Andhra Pradesh Lok Ayukta and Upa Lok Ayukta (Investigation) Rules, 1984, the Lok Ayukta has the jurisdiction to dismiss a complaint summarily, if he satisfies that the allegations contained in the

complaint do not fall within the purview of Lok Ayukta or that the person against whom the complaint is made cannot be summoned for enquiry or investigation under the 1983 Act. This is precisely what the learned Lok Ayukta has done in the present case and, as will be seen hereinafter, we do not find any reason to disagree with him.

For appreciating the first contention of the learned counsel, it will be profitable to notice the definition of term 'officer' [Section 2 (i)] and expression 'public servant' [Section 2 (k)] which read as under:

> "Section 2 (i) 'Officer means a person appointed to a public service or post in connection with the affairs of the State of Andhra Pradesh, but does not include a person holding a post carrying a minimum scale of pay of rupees seven thousand four hundred and below of the Revised Scales of Pay, 1999 or the corresponding Revision of Scale of Pay as and when such revision takes place from time to time.
>
> 2 (k) 'public servant' means a person falling under any of the following descriptions, namely –
>
> (i) every Minister referred to in Clause (g);
>
> (ii) every Member of either House of the State Legislature, including the Chief Whip in the Assembly and the Chief Whip in the Council, whether present or past;
>
> (iii) every officer referred to in Clause (i);
>
> (iv) (1) Every Chairperson and every Vice-Chairperson of a Zilla parishad and every President of a Mandal Parishad constituted by or under the Andhra Pradesh Panchayat Raj Act, 1994;
>
> (2) every Mayor of the Municipal Corporation constituted by or under the relevant law for the time being in force;
>
> (3) every Chairman of a Municipal Council constituted or, deemed to be constituted under the Andhra Pradesh Municipalities Act, 1965 (Act 6 of 1965), other than that of second and third grade municipalities;
>
> (v) every Chairman or President, by whatever name

called of the governing body to which the management is entrusted and every director, if any, in respect of, --

(1) any local authority in the State;

(2) any Corporation (not being a local authority) established by or under a State Act and owned or controlled by the Government;

(3) any Government Company within the meaning of Section 617 of the Companies Act, 1956 (Central Act 1 of 1956);

(4) any society registered under the Societies Registration Act, 1980 (Central Act 21 of 1860) or the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350 F. (Act 1 of 1350 F), which is subject to the control of the Government;

(5) any co-operative society registered or deemed to be registered under the Andhra Pradesh Co-operative Societies Act, 1964 (Act 7 of 1964) whose area of operation extends to the whole of the State or is confined to a part of the State extending to an area not less than a district;

(vi) every Vice-Chancellor and every Registrar, of a University in the State, established by law made by the State Legislature;

A conjoint reading of Section 2 (k) (iii) with Section 2 (i) makes it clear that a person appointed to a public service or post in the State of Andhra Pradesh falls within the definition of public servant. None of the persons who were made parties to the complaint filed by the petitioner before the Lok Ayukta answer the description of person appointed in connection with the affairs of the State of Andhra Pradesh. Therefore, the mere fact that they are appointed in the service of the Wakf Board by the State Government cannot lead to the conclusion that they fall within the definition of 'public servant' under Section 2 (k) of the 1983 Act.

For the reasons mentioned above, we hold that the learned Lok Ayukta did not commit any jurisdictional error by refusing to entertain the complaint filed by the petitioner and the writ petition is liable to be dismissed. Ordered accordingly.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

12-10-2006
ks